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1860



Cape of Good Hope

House

Report on the  
Guardian's Fund



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R E P O R T

OF THE

SELECT COMMITTEE

ON THE

GUARDIANS' FUND.

*Ordered by the House of Assembly to be printed,*

JUNE, 1860.

CAPE TOWN:

SAUL SOLOMON AND CO., STEAM PRINTING OFFICE

1860.



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CAPE OF GOOD HOPE.

Parliament. House

<sup>2</sup>  
[REPORT]

[OF THE]

SELECT COMMITTEE

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# R E P O R T

OF THE

SELECT COMMITTEE appointed by the HOUSE of ASSEMBLY, on the 18th May, 1860, to consider and report upon the Return of an Address of this House to His Excellency the Governor, dated 5th April, 1859, relative to the Administration of the GUARDIANS' FUND; the safety of the securities and books connected therewith, as regards fire; and the mode adopted for investing moneys belonging to that Fund,—with power to call for papers and take evidence.

## MEMBERS :

Mr. LE SUEUR (Chairman),

Mr. Loedolf,

Mr. J. H. Brand,

Mr. Aspeling,

Dr. White.

The committee find that, hitherto, no steps have been taken for securing against accidents by fire, or otherwise, the valuable documents deposited in the Master's Office, such as bonds, wills, liquidation accounts, &c. ; and that, latterly, on account of the substitution of a boarded floor for a stone floor, and the fact of the flue of a fire-place in an office below passing through the boarded floor of the room containing the most important papers, the risk is considerably increased. The committee, therefore, strongly recommend that, until the fire-proof building, the erection of which has been recommended by the House, shall be finished, a number of fire-proof safes be purchased, in which the most valuable papers should be deposited.

These safes (which always retain their value) might afterwards be distributed among other departments in Cape Town, or forwarded to civil commissioners who have no safes.

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Finally, the committee beg to suggest that some responsible commission be appointed by Parliament to advise on the investment of moneys belonging to this Fund ; from time to time to examine the several securities, as well as the accounts of this Fund ; and, annually, to report thereon to this House.

R. LE SUEUR, Chairman.

Committee Rooms, House of Assembly,  
27th June, 1860.

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Master's Office, 9th June, 1860.

R. LE SUEUR, Esq., Chairman of the  
Guardians' Fund Committee of the House of Assembly.

SIR,—I beg to enclose the statements called for by your committee relative to the Guardians' Fund.

The rough draft submitted, which is also herewith, I will thank you to return.

I have, &c.,

J. STEUART, Master.



STATEMENT of Moneys drawn by Government from the Guardians' Fund since 1857.

Date.	Amount.	REMARKS.
	£      s.      d.	
1857.		
6th August .. ..	10,000   0   0	Paid pursuant to Government letter of 6th instant, being a sum lent from the deposits of the Guardians' Fund in the Colonial Treasury, upon the understanding that it is to be repaid whenever required for investment. Repaid in cash in December, 1857.
1858.		
13th August ..	10,000   0   0	Paid pursuant to authority of the Governor, conveyed in a letter from the Colonial Office, dated 12th instant, upon same understanding as above. Repaid 29th Nov., 1858, on account £2,000, 20th April, 1859, balance £8,000.
2nd September ..	772   4   0	For Government Debentures, to be issued under the provisions of Act No. 18, of 1858.
30th September ..	3,350   0   0	Ditto      ditto      ditto.
19th November ..	2,500   0   0	Paid 19th instant, pursuant to Government letter of same date, for Debentures which have since been issued.
1859.		
1st July .. ..	6,700   0   0	For Government Debentures.
31st August ..	2,529   8   6	On account of ceded Bonds, guaranteed by Government.
30th September ..	2,000   0   0	Interest paid in compliance with Government letter of 30th instant, as a temporary advance from the surplus balance of the Guardians' Fund.
Carried forward	37,851   8   6	

STATEMENT of Moneys drawn by Government from the Guardians' Fund since 1857.

Date.	Amount.	REMARKS.
	£      s.      d.	
Brought forward	37,851    8    6	
1859.		
18th November ..	2,096    1    10	On account of ceded Bonds, guaranteed by Government.
28th December ..	2,141    1    2	For six Bonds ceded by Government to the Guardians' Fund, under guarantee of the former.
1860.		
27th January ..	3,228    19    3	For thirteen Bonds ceded to the Guardians' Fund, under guarantee of the Government.
15th February ..	4,000    0    0	Paid 15th instant, into the Colonial Treasury, pursuant to Government letter of the 14th instant, as a loan in aid of the Revenue, the repayment of which will form the subject of a future communication, and to bear interest from date of loan.
5th May    ..    ..	825    14    10	For three Bonds ceded by Government to the Guardians' Fund, under guarantee of the former.
8th May    ..    ..	10,000    0    0	For Bonds to be ceded to the Guardians' Fund, with interest from date of loan.
Total	60,143    5    7	

8th June, 1860.

J. STEUART, Master.

## STATEMENT of LOSSES sustained by the GUARDIANS' FUND, showing the Amount and Dates of the Loans, the Total Deficiencies, and by whom the Investments were made.

Debtor, and date of Loan.	Capital.		Loss sustained.		By whom the Investment was made.
	£	s. d.	£	s. d.	
Bayley, James (1826)	101	13 0	101	13 0	By the late Orphan Chamber, paid by authority of Government, being a total loss on a bond ceded by late Sequestrator to the late Orphan Chamber, as administrators in <i>re</i> late Jan Peter Kersten.
Buissine, heirs of the late Peto Stephis.	.	.	250	0 0	
Thorne, Thomas (1838)	450	0 0	190	14 9	Paid by authority of the Secretary of State, Despatch of the 19th July, 1841, to the heirs of the late Wilhelm Buissine. Compensation money of Slaves,—received by the heirs of late P. S. Buissine.
Schutte, Herman (1834 and 1838)	80	0 0	1,267	5 7	
Hane, John .. ..	1,000	0 0	487	5 9	Ditto
Pentz, Jaes. Johs. (1839)	1,000	0 0	427	5 5½	Ditto
Mackrell, Wm. J. (1838)	875	0 0	502	1 8	Ditto
Lary, Domenicus (1837)	1,000	0 0	271	10 5	Ditto

STATEMENT of LOSSES sustained by the GUARDIANS' FUND, showing the Amount and Dates of the Loans, the Total Deficiencies, and by whom the Investments were made—(continued).

Debtor, and date of Loan.	Capital. }			Loss sustained.			By whom the Investment was made.
	£	s	d.	£	s	d.	
Horak, Jan Marths. (1839) .. ..	500	0	0	218	4	4	By the Guardians' Fund.
Fielding, Francis B. (1839) .. ..	350	0	0	104	10	8	
Tennant, Alen Wm. (1837 and 1838) ..	400	0	0}	243	0	1	
	850	0	0}				
Napier, Letitia Mary (1837, 1838, and 1847)	400	0	0}	358	4	9	Ditto
	400	0	0}				
	52	10	0}				
Brand, L.L.D., Christl. Jos. (1838) .. ..	3,000	0	0	1,162	15	11	Ditto
Loxton, Thomas (1838) .. ..	334	0	0	163	5	0	By the Guardians' Fund, property sold under execution.
Horne, James (1838) .. ..	1,150	0	0	289	18	10	
Wet, T. son, Gert H. L. de (1838) .. ..	3,900	0	0	225	18	1	Ditto
Kraft, Widow J. M. (1839) .. ..	250	0	0	170	0	6	Ditto
Powell, Jan Pieter (1841) .. ..	375	0	0	113	2	10	Ditto
Zastron, Carel M. (1841) .. ..	3,000	0	0	521	3	10	Ditto

Wielleg, Chas. van (1843)	..	..	555	0	0	341	9	9½	By the Guardians' Fund.
Townsend, John (1846)	..	..	1,960	0	0½	219	0	1	By the Guardians' Fund, compromise made by authority of Government.
			91	10	0½				
Rogerson, Ralph (1838)	..	..	300	0	0½	294	1	3	By the Guardians' Fund.
			400	0	0½				
Rogers, Geo. Jackson (1839)	..	..	2,000	0	0	120	0	0	Ditto
Höhne, Peter Donald (1838 and 1839)	..	..	4,200	0	0½	1,193	5	6	Ditto
			900	0	0½				
Chase, Isaac (1840)	..	..	1,200	0	0	402	4	7	Ditto
Cloete, Daniel Jacob (1843 and 1847)	..	..	750	0	0½	591	6	9	Ditto
			300	0	0½				
Cloete, Jan G. (1843)	..	..	750	0	0	332	11	5	Bond taken over by authority of Government, from the Discount Bank.
Robinson, Samuel Francis (1848)	..	..	200	0	0	59	13	9	By the Guardians' Fund.
Beil, L. H. (1839)	..	..	400	0	0	321	0	0	Ditto
Kock, F. son, P. M. de (1852)	..	..	375	0	0	153	10	7	Ditto
King, Thomas (1839)	..	..	1,000	0	0	440	3	2	
Holtshausen, P. J. (1853)	..	..	400	0	0	95	4	0	
Truter, H. A. (1855)	..	..	45	0	0	28	0	2	

J. STEUART, Master.

Master's Office, 9th June, 1860.

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# PROCEEDINGS OF COMMITTEE.

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*Wednesday, 6th June, 1860.*

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PRESENT:

Mr. J. H. Brand,		Mr. le Sueur,
Dr. White,		Mr. Loedolff.

Proposed by Mr. Loedolff, seconded by Dr. White:  
That Mr. le Sueur take the chair.

Carried.

Read, the Return to an Address of the House of Assembly to His Excellency the Governor, dated 5th April, 1859.

Read, also, statement of Loans made by the Government from the Guardians' Fund, during the year ended 30th April, 1860.

Committee in deliberation.

Proposed by Dr. White, seconded by Mr. Loedolff:

That the Chairman call upon the Master of the Supreme Court for a further statement of moneys drawn by the Government from the Guardians' Fund, from the 15th February up to this date.

Proposed by Mr. Loedolff, seconded by Mr. J. H. Brand:

That the following gentlemen be requested to attend to give evidence before this committee,—Messrs. J. Steuart, R. S. Loedolff, and J. J. L. Smuts.

Carried.

The Committee adjourned to Friday, the 8th instant, at ten o'clock.

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*Tuesday, 12th June, 1860.*

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PRESENT:

Mr. LE SUEUR (Chairman),		
Mr. J. H. Brand,		Mr. Loedolff,
Mr. Aspelng,		Dr. White.

The Chairman submits a letter received from the Master of the Supreme Court, transmitting a statement of moneys drawn by Government from the Guardians' Fund since 1857, and statement of losses suffered on investments of that fund from 1826 to 1855.

Proposed by Mr. Brand, seconded by Mr. Aspelng:

That the evidence taken be printed, and that the Chairman be requested to draft a Report embodying the committee's opinion



on the several subjects that have been under consideration, to be submitted, together with the evidence, at the next meeting; being the following, namely:

1. Want of security of the valuable papers of the department.
  2. Upon the principle of appointing appraisers.
  3. The necessity of reference being from time to time made to the divisional councils, or others competent to judge, relative to the safety of the hypothecations held by the Master.
  4. The impropriety of money being drawn by Government from the Guardians' Fund, without giving the securities prescribed, by Ordinance No. 105, as necessary for such investments.
  5. That the committee find that Ordinances 103, 104, and 105, upon which the Master's Office and the Guardians' Fund are administered, have been only provisionally confirmed by the Secretary of State.
  6. That the losses sustained by the fund, while under the administration of the late Orphan Chamber, amounted to £351 13s.; under the administration of the former Master of the Supreme Court, £10,931; under the administration of the present officer holding that appointment, to £276 14s. 9d.
  7. That the moneys drawn by Government from the Guardians' Fund since 1857, amounted to £60,143 5s. 7d., and no securities are given for £16,000 thereof.
  8. It is the opinion of the committee that, as the Colonial Government have appropriated annually a large sum by way of surplus interest, the Government should be held responsible for all losses which the Guardians' Fund might suffer.
  9. The fund being, to all intents and purposes, private property held in trust by the Government, the committee strongly deprecates the fact that the administrators, lenders, and borrowers in this fund should be *the same persons*; and are of opinion that some other responsible commission should be appointed by Parliament, to advise in the investment of moneys, and from time to time to examine the several securities, and to report thereon to this House.
- Committee adjourned at one o'clock.

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*Wednesday, 27th June, 1860.*

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PRESENT:

Mr. LE SUEUR (Chairman),

Mr. J. H. Brand,            |            Dr. White.

The Chairman brought up and submitted draft of report.  
 Report read by the Chairman, and adopted by the committee.  
 Proposed by Dr. White, and seconded by Mr. J. H. Brand:  
 That the Chairman present the report to the House this day.







Mr.  
J. Stewart.  
8th June,  
1869.

5. *Chairman.*] Are you aware whether the Government has resolved to build a fire-proof safe?—Yes; I have been in communication with Government about the plan, but the site of it has, I understand, not yet been determined on; the last plan I saw was for a building on the Parade for several of the public offices, but I do not consider it very suitable for the purpose as to situation.

6. *Dr. White.*] Supposing a fire happened and these bonds were destroyed, is there any plan or means by which the loss could be remedied?—I think it could be done by application at the Registrar's Office, where duplicates are preserved.

7. How is the Deeds Office secured; is there a fire-proof safe there?—I am not quite sure about that, but I believe a portion of the office is fire-proof.

8. *Mr. Loedolff.*] Supposing that the Deeds Office were also to be destroyed by fire, how would you then remedy the loss?—If both were destroyed by fire, I do not think any evidence would be obtainable to substantiate the debts.

9. *Dr. White.*] How far are the two offices from each other?—In the same building, diagonally opposite each other.

10. *Chairman.*] Do you consider that if the bonds are burnt, the mere fact of their entry in the debt register would not be sufficient to enable you to claim?—I am quite sure not; nothing but the signature of the debtor will prove the debt.

11. You stated that the building to give security to your bonds, as well as the valuable documents in the Deeds Office, has not been commenced: could you suggest any mode by which, for the present, greater security could be given to those documents until such a building could be procured or built?—My offices are upstairs, and, of course, in order to construct a safe of masonry, it must rest upon a foundation on the ground floor, which would, in this case, interfere with the Audit Office. It could not be done without giving up at least some part of the Audit Office, which is underneath mine. That is the chief difficulty I know of as regards masonry, but an iron portable safe could be placed anywhere. I do not know, however, whether in case of fire, they are any real protection.

12. Is there not a safe called the Vault, belonging to the Treasury?—There is, but it is much too small, and belongs to the Treasury. Besides, my documents are required almost

daily, as references have constantly to be made to the wills and accounts, and also to the bonds.

13. *Dr. White.*] I suppose the number of documents is so great that you would require a very large portable safe to arrange them in?—It would be quite inadequate, we should require fire-proof apartments of some size

14. *Chairman.*] You are acquainted with some private institutions where the money administration is conducted to a large extent: are you aware that they all have proper safes for keeping bonds and other securities?—I am aware that the South African Association has fire-proof safes for their books and documents; I may add the South African Assurance Company, who have also safe and secure accommodation.

15. *Dr. White.*] Do not you think that if private institutions have such secure accommodation, Government might have the same?—There is no difficulty about it, if the Government agree to its construction.

16. *Mr. Loedolff.*] Would you think it advisable to have temporary security for the bonds while they are going on with the new building,—a temporary sort of safe for preserving the bonds?—If sufficiently large, iron safes might temporarily be used.

17. Suppose such a fire-proof safe be used of the same description as that tested on the Parade, merely to deposit the bonds in?—It would be much too small.

18. *Chairman.*] Do not you think that a number of Milner's patent fire-proof safes of the largest size would greatly add to give security for the present?—Yes, I think so; but the wills are, perhaps, of more importance than the bonds, because the bonds have duplicates and the wills have none. It is also desirable that some of the books, such as the wards' book, the ledgers, &c., should be secured in such safes.

19. Do you know what amount is at present under your administration,—I mean the amount belonging to the Guardians' Fund?—I think about £268,000.

20. The responsibility of this administration is entirely vested in you, I believe?—It is.

21. The general rate of interest charged upon money invested by you is six per cent.?—Yes, six per cent.

22. And that allowed to the wards is five per cent.?—The law provides that it shall be one per cent. less than the

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current rate of interest; when the one fluctuates, the other follows. The 105th Ordinance fixes six per cent. as the legal rate of interest for its purposes.

23. Then we are to understand that in the statement furnished by you for the information of the House, the item of £2,000 paid by you to the Government is on account of what is called the surplus interest, up to the 30th September, 1859?—Yes; at that time the books for the year were not balanced, and I made an advance on account of what would be available.

24. This surplus interest, then, is the one per cent. interest between the amount received and the amount paid over?—Yes; but in that particular instance, the sum of £2,000 rather exceeded the amount of surplus interest which was afterward ascertained to be available.

25. Are you of opinion that this one per cent. is a kind of allowance to the Government for administering the fund?—I think it may be viewed in that light,—the commission for administration.

26. Then you look upon the Guardians' Fund as private property administered by the Government?—Yes, for which the Government is responsible; private property deposited in trust.

27. You are aware that the law forces people to bring all minors' moneys in intestate estates or the estates of lunatics to the Guardians' Fund, and that testamentary executors may, if they please, take advantage of it, and that many do so?—Yes.

28. You have been in the habit, as long as you have administered this fund, to invest upon first mortgage of landed property?—Yes, almost invariably upon first mortgages; that has been the principle.

29. Are you aware that the Government has ever been in the habit of withdrawing moneys from the Guardians' Fund for its own purposes prior to the surplus interest becoming due?—The money is now deposited in the hands of the Treasurer-General. On several occasions the Government has applied for the temporary use of certain sums for general purposes, when large uninvested amounts have been lying in their hands; they have done this for some years past. In former times, the funds were deposited in the Government Discount Bank, and may have been employed in discounting bills; of course, a sufficient amount was



always kept in hand to meet the Master's cheques. When the Discount Bank was abolished, Government directed that the Treasury should be substituted as the place of deposit of the Guardians' Fund.

30. *Dr. White.*] How is this withdrawn from the Treasurer?—By my cheque, in favour of the Treasurer-General.

31. Without any security?—By Government authority, conveyed in letters authorizing or directing it to be done.

32. Do you feel yourself at liberty, upon the mere dictum of the Government, to withdraw moneys from the Guardians' Fund for the use of Government?—Well, I did not think of raising that question or disputing the authority of Government; it was a direction of the Secretary in the name of the Executive, and I viewed it as equivalent to an order to make the payments.

33. In that case you relinquished your responsibility?—I took the receipts of the Treasurer and of the Colonial Government for the amounts, holding them responsible.

34. *Chairman.*] You have never remonstrated with the Government on the subject?—Yes, I have, and told them that I did not consider it according to law, strictly speaking. But some of these advances were merely temporary, to be afterwards replaced by Government debentures, and in bonds in favour of the Colonial Government for the price of Crown lands.

35. Have all the bonds which Government has made over to you, at the time when the money has been advanced by you, and which have been given as security for these sums, been approved of by yourself or by the committee acting with you?—No; I have not looked into their merits. They were all Crown land bonds, and I have accepted cession of them with the Government guarantee; they were for two thirds of the purchase-money of properties sold.

36. In which way is that guarantee expressed?—In the letter which directs the transaction to take place. I do not think it is in the cession itself; I do not think it is embodied in the actual cession by the Treasurer.

37. *Dr. White.*] Then, in fact, they are not yours; they belong to the Government?—They became mine by cession, and I immediately acquainted the debtors that the bonds had been ceded to the Guardians' Fund.

38. *Chairman.*] I find that on the 15th February last, you advanced £4,000 to the Government,—that, of course,

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was paid upon a Government letter, as I see here that for that amount no security has been given?—I think some bonds have since been ceded in lieu of this payment.

39. Have you been called upon to furnish a further statement since this between February and April?—No; not previous to the first date of that return; the letter only says, “the subsequent payments,” that is, since 30th April last. Only one payment has been made since, and that I can state from memory: it was the amount of £10,000 in the month of May last. That, and the £4,000 are to bear interest from the date of payment.

40. Dr. White.] Then, of course, if the £4,000 has not been covered by bonds, the £10,000 is merely by letter?—Yes; but stated to be subsequently covered by bonds in the same way as the previous advances.

41. Chairman.] Have you, at any time, received instructions from the Government, either by letter or verbally, not to invest money upon mortgage on applications from private individuals, but to reserve it for the Government?—Yes; in conversation upon the subject, I have been given to understand that large sales of Crown lands had taken place, and that it was desired that I should not invest any money on loan, until the bonds for the price were realized in that manner.

42. Mr. Loedolff.] Do not you think that that will lead to great inconvenience to the public?—There were a great many applications which I was obliged to decline.

43. Chairman.] Applications which you were satisfied were good and safe?—I did not consider it necessary to examine them minutely, as they were not then to be entertained, but I have reason to think that many of them were good.

44. In these times, when money is so scarce, you could have your pick of the very best security?—I believe that I could have invested large sums very favourably.

45. Dr. White.] In plain terms, as Master of the Supreme Court, in trust of the Guardians' Fund, you are not a free agent in the direction of your affairs?—I have at all times to consult the Treasurer and Auditor in any investment in immovable property; I cannot make a loan without their consent, and we must all agree.

46. Have you power to refuse the Government or resist their authority, if they wanted you to advance them a certain sum?—That might be followed by a peremptory order to do it.



47. Suppose you got such an order, could you not refuse compliance?—I suppose I should be obliged to comply with it; but, undoubtedly, the law makes no provision for such transactions. I refer to Ordinance 105, section 32.

48. Mr. *Loedolff*.] Have these gentlemen ever been consulted in taking over the Government bonds?—No; I consider that this was superseded by direction of the Executive Government, to accept cession of them under their guarantee.

49. Then you hold that the Government or Executive have the right or power to upset a law?—No, I do not hold that; but still, they gave the directions above referred to, which were not strictly in accordance with the law above quoted.

50. *Chairman*] You cannot approve of it?—I do not think it is in consonance with the provisions of the law; but I dare say those bonds would have been held sufficient, if presented in the ordinary way, though they are generally for such remote properties, that they are not the most desirable mortgages.

51. Are you not of opinion that in investing moneys belonging to the Guardians' Fund, private men, individuals of experience, would be of more use to you in granting loans than two officers appointed by law; would you not have more confidence in them?—No; I think that those officers are quite disinterested, as far as that goes.

52. Of course you say so, when you put implicit confidence in them: but are you of opinion that those gentlemen could have as correct a knowledge of the value of landed property in several of the districts of the colony, or even in Cape Town, as private individuals could have as directors of boards, or other people?—Very possibly they have not; at the same time any other persons appointed to assist me would only have a knowledge of their own localities, and loans are made in all parts of the colony; and it is not to be expected that any gentlemen are to be found who are acquainted with all the different districts. The appraisements are what have chiefly to be considered.

53. Dr. *White*.] Would it not be better to have the advantage of local knowledge?—Yes; that is the basis upon which the loans are made, upon the sworn appraisers' valuation of the property; and we three merely sit and judge as to the sufficiency of that appraisalment, with the assistance, of course, of any local acquaintance with the property which we may happen to possess.

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54. *Chairman.*] Have you implicit confidence in the appraisements of sworn appraisers?—I have frequently been much disappointed by property not by any means realizing the appraised value when it has been sold. I have not in all cases implicit confidence in those appraisements.

55. You have not then any persons in the country districts with whom you could from time to time communicate as to the deterioration of landed property?—No; I have not at present, excepting what may be obtained from private information.

56. You are aware that the late Orphan Chamber had agents in the country districts?—Yes; if I am to consider the appraisers so far in that light, I have them also.

57. *Dr. White.*] For instance, after a loan has been effected on property in the country districts, say in houses; in case these houses in a short time become dilapidated or go to ruin, you have no means of ascertaining the fact?—No; I have no direct means of ascertaining it; I consider this to be a matter that involves the Guardians' Fund in considerable risk.

58. *Chairman.*] Do you not think that agents could be appointed; these might be either the civil commissioner, or some Government functionary, and some persons of standing in the district, or members of the divisional council, or the divisional council itself, as a body: would this not give you more confidence, if the appraisements were referred to them. Of course, it cannot be expected that the divisional council should become appraisers, but merely to act as referees. Do not you think that any of these parties giving you advice upon the subject would enable you to advance money on loan with more confidence?—Yes; I think that such information as they could give would be of great value.

59. Do you not also consider it useful that the bodies or private individuals acting as agents or referees, should from time to time report to you upon the state of the property in their district?—Yes; I think this is most desirable.

60. For instance, if half-yearly you sent a list of the property upon which loans have been granted, with a request to fill up the column of remarks?—Yes, from time to time; every two or three years would be sufficient. The great matter is to get disinterested and reliable information.

61. In appointing appraisers you are mostly guided by the opinion of the magistrate, and then you give the prefer-

ence according to the order in which the application is made? —Yes, so far; but I do not consider myself bound to give that preference according to the order of application. I take the best that can be found,—the most strongly recommended, or those who are known to myself.

62. Mr. *Loedolff*.] Do you not think the recommendation from the divisional council better than one from the magistrate?—Yes; I think so.

63. Because the members of the divisional council are generally acquainted with everybody, when the reverse of this is often the case with the magistrate?—Yes.

64. Dr. *White*.] On the present system of appointing appraisers, do you not often find a difficulty in appointing appraisers, in business, whose interest it may be to recommend loans?—That is my chief difficulty; it is to obtain the services of a properly qualified, and at the same time a disinterested and reliable person.

65. For that very reason a board like the divisional council would obviate that difficulty?—I think it might assist me considerably.

66. Mr. *Loedolff*.] Since the abolition of the old Orphan Chamber, have many losses been sustained by money invested by the old Orphan Chamber?—I cannot from memory give an exact statement.

67. Could you furnish the committee with that statement? —Yes; I can have one prepared.

Mr. *J. J. L. Smuts* called in and examined.

68. *Chairman*.] You were the secretary of the old Orphan Chamber?—Yes.

69. Of how many members did the board consist?—Four members, a president, and secretary.

70. These members were paid officers of the Government? —Yes.

71. Mr. *Loedolff*.] The chairman held office by being president of the Court of Justice?—Yes; until the creation of the present Court of Justice, and then Mr. Berrangé was appointed the president, until the abolition of the Orphan Chamber.

72. *Chairman*.] What was the special duty of the members of the Orphan Chamber?—They had to appear once a week, and when they were required to go to a survey or sale, they were specially requested to attend.

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*J. Stewart.*  
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1860.

Mr.  
*J. J. L. Smuts.*

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73. Then am I to understand that all estates were administered by the Orphan Chamber?—No; only intestate estates, and estates of lunatics.

74. The Orphan Chamber were also appointed executors?—Yes; in many instances at that time. I may say that the principal estates at that time were administered by them under will.

75. They were bound, if they were made executors, to administer all estates?—Yes; they even went so far as Worcester, Clanwilliam, and other places, in the execution of their duty.

76. Mr. *Loedolff*.] Speaking of the duty of the members, was it not so arranged that there were always two members of the board who took the business by rotation every month?—Yes.

77. Were the bonds of the Orphan Chamber examined from time to time?—No; but it was a very great requisite.

78. *Chairman*.] The board was responsible for the investment of moneys?—Yes.

79. The board had agents in the country districts everywhere?—Yes.

80. Who were these agents, generally?—That I cannot say.

81. Were they generally civil officers?—I cannot say, exactly.

82. Dr. *White*.] Do you mean to say that the members of the board were individually responsible?—Yes; I may instance a decision given by the Supreme Court, where a loss occurred of £150, owing to too much indulgence having been shown to the debtor and sureties to the bond. The matter was brought into the Supreme Court, and the court decreed that the members should make good the loss out of their private pockets.

83. Do you recollect any instance, during your administration as secretary, in which the board made loans to the Government?—No; I cannot recollect a single instance.

84. Then you looked upon that fund as entirely private property?—Of course.

85. You imagine that the Government has no right at any time, unless giving the security required by law, to take money from the Guardians' Fund?—I should think not.

86. Are you of opinion that the Government should not even have the preference; because this money, being private



property, people in general, all over the colony, have an interest in that money not being withdrawn from circulation when they have a right to it by giving good security?—I would not go so far as that. If Government gave the same security, why should not Government have the preference? I think they should have the preference, because I consider the Government, in a certain degree, responsible, as they appoint all the officers, and in appointing them they are more or less responsible. Under those circumstances, I do not see why the Government, bringing equally good security, should not have the preference.

87. Do you think anything could occur by which the Government guarantee, unless they, of course, give first mortgage upon landed property, could be invalidated?—If they gave the same security as private persons, they stand upon equal ground.

88. Then you mean to say that if I, as curator of a lunatic, or as curator of minors, and, perhaps, acting for the benefit of such minors, bought a place of the value of £2,000, I applied for £1,000, upon first mortgage, and the Government, with equally good security, were to apply for a similar sum, I should not have the preference?—No; I do not see why Government should not have the same privilege. From the evidence I heard the Master give, it seems that the money administered by him for the Guardians' Fund is no longer considered as private property of wards, but as Government money, as it appears the Government disposes of it just as they please.

89. Would the late Orphan Chamber adhere to a direction from the Government to pay into the Treasury without security, unless the matter had been previously brought before the board?—As secretary of the late Orphan Chamber, I would not comply with it; but I do not know whether the members would have acted otherwise.

90. Was not, at that time, the secretary considered as adviser of the board?—Yes, with the exception of law questions, which were always submitted to the president; sometimes we used our discretion, sometimes we consulted agents in the country—field-cornets, &c.,—but we had no fixed valuator at the time. We had a rule that it was necessary to ascertain, periodically, whether the properties mortgaged retained their value or otherwise. The members were from time to time to examine the securities, but they

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seldom complied with it. We held our agents responsible for debts, and they were paid out of fees of cases under their administration.

91. Have you heard Mr. Steuart's statement as to the safety of the papers of the Guardians' Fund?—Yes; I do not think there is sufficient security.

Mr. R. H. Loedolff called in and examined.

Mr.  
R. H. Loedolff.

92. *Chairman.*] You are at present chief clerk at the Orphan Chamber—Yes. ?

93. How long have you been at that office?—Since 1847.

94. In investing mortgages for the Guardians' Fund, are you ever consulted?—I am, in virtue of my office.

95. Are any other gentlemen consulted?—Yes; in creating new loans, the officers appointed under Ordinance No. 105 to advise the Master are consulted.

96. Are there instances in which you have dissuaded them from granting loans?—There have been instances.

97. Has the Guardians' Fund, in some instances, lost money?—I think so. In one particular instance, I was opposed to a loan of £600, though the application was supported by eight or nine certificates of the value of the property, and scarcely one third of the loan was recovered.

98. Do you consider, in your position of the office, that you ought to be consulted in investing money?—From my experience of the administration of the fund, I ought to be so, although I am convinced there is no responsibility attached to my opinion.

99. You are aware that the Government have, from time to time, taken money from the Guardians' Fund; some on account of surplus in interest, and some on account of securities to be afterwards furnished?—Yes; these sums have been withdrawn by order of Government, without the board being consulted.

100. Can you furnish me with a statement of moneys drawn from the Guardians' Fund from 1857 to the present date?—Yes; I shall produce the statement, as requested by you.

101. Are the papers not very insecure against accidents by fire?—I consider that the flue of the stove of the Audit Office, which passes through the boarded floor in the room where the most useful papers of the office are kept, is

extremely dangerous. Whilst sitting in my office, I have often observed smoke coming through the joints of the pipe, and, on one occasion, also flames, so that I had to send down to the Audit Office to request them to extinguish the fire. I consider that a number of iron fire-proof safes should be supplied to the department, for the purpose of keeping the most valuable documents. It is a rule of the Treasurer-General's Office that they will receive no money from me after three o'clock; whereas I must receive at all times, so that frequently there are large sums deposited with me, to the amount of from one to two thousand pounds.

102. You are, no doubt, of opinion that from the Master should submit a list of his investments to the scrutiny of some confidential individual in the country, for the purpose of reporting whether the investments continue to be safe?—I think it advisable that they should be done half-yearly, so that the Master can over the safety of his investments. I do not think that the staff in the office is sufficient at all times to accommodate the public; the business, and more particularly the correspondence, having lately considerably increased, on account of the creation of new civil commissioners and the extension of the colony.

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